

House File 135 - Introduced

HOUSE FILE 135

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A BILL FOR

- 1 An Act relating to the application of foreign laws, and
- 2 including effective date provisions.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 537C.1 Public policy of this state.

2 1. It shall be the public policy of this state to protect
3 its citizens from the application of foreign laws when the
4 application of foreign law will result in the violation of
5 a right guaranteed by the Constitution of the United States
6 or the Constitution of the State of Iowa, including but
7 not limited to due process; freedom of religion, speech, or
8 press; and any right of privacy or marriage embodied in the
9 Constitution of the State of Iowa.

10 2. It shall be the public policy of this state to fully
11 recognize the right to contract freely under the laws of this
12 state, and also to recognize that this right may be reasonably
13 and rationally circumscribed pursuant to the state's interest
14 to protect and promote rights and privileges granted under
15 the Constitution of the United States and the Constitution of
16 the State of Iowa, including but not limited to due process;
17 freedom of religion, speech, or press; and any right of privacy
18 or marriage embodied in the Constitution of the State of Iowa.

19 Sec. 2. NEW SECTION. 537C.2 Definition.

20 As used in this chapter, "*foreign law*" means any law, legal
21 code, or system of a jurisdiction outside of any state or
22 territory of the United States, including but not limited to
23 international organizations and tribunals, and applied by that
24 jurisdiction's courts, administrative bodies, or other formal
25 or informal tribunals.

26 Sec. 3. NEW SECTION. 537C.3 Use of foreign laws —
27 enforceability.

28 Any court, arbitration, tribunal, or administrative agency
29 ruling or decision violates the public policy of this state
30 and shall be void and unenforceable if the court, arbitration,
31 tribunal, or administrative agency bases its ruling or decision
32 in the matter at issue in whole or in part on any law, legal
33 code, or system, that would not grant the parties affected by
34 the ruling or decision the same fundamental liberties, rights,
35 and privileges granted under the Constitution of the United

1 States and the Constitution of the State of Iowa, including
2 but not limited to due process; freedom of religion, speech,
3 or press; and any right of privacy or marriage embodied in the
4 Constitution of the State of Iowa.

5 Sec. 4. NEW SECTION. **537C.4 Choice of law.**

6 A contract or contractual provision, if capable of
7 segregation, which provides for the choice of a law, legal
8 code, or system, to govern some or all of the disputes
9 between the parties adjudicated by a court of law or by an
10 arbitration panel arising from the contract mutually agreed
11 upon violates the public policy of this state and shall be void
12 and unenforceable if the law, legal code, or system chosen
13 includes or incorporates any substantive or procedural law,
14 as applied to the dispute at issue, that would not grant the
15 parties the same fundamental liberties, rights, and privileges
16 granted under the Constitution of the United States and the
17 Constitution of the State of Iowa, including but not limited
18 to due process; freedom of religion, speech, or press; and any
19 right of privacy or marriage embodied in the Constitution of
20 the State of Iowa.

21 Sec. 5. NEW SECTION. **537C.5 Jurisdiction.**

22 A contract or contractual provision, if capable of
23 segregation, which provides for jurisdiction for the purpose
24 of granting the courts or arbitration panels in personam
25 jurisdiction over the parties to adjudicate any disputes
26 between the parties arising from the contract mutually agreed
27 upon violates the public policy of this state and shall be void
28 and unenforceable if the law, legal code, or system chosen
29 includes or incorporates any substantive or procedural law,
30 as applied to the dispute at issue, that would not grant the
31 parties the same fundamental liberties, rights, and privileges
32 granted under the Constitution of the United States and the
33 Constitution of the State of Iowa, including but not limited
34 to due process; freedom of religion, speech, or press; and any
35 right of privacy or marriage embodied in the Constitution of

1 the State of Iowa.

2 Sec. 6. NEW SECTION. 537C.6 Forum non conveniens.

3 If a person of this state, subject to personal jurisdiction
4 in this state, seeks to maintain litigation, arbitration,
5 agency, or similarly binding proceedings in this state and if
6 the courts of this state find that granting a claim of forum
7 non conveniens or a related claim violates or would likely
8 violate the constitutional rights of the nonclaimant in the
9 foreign forum with respect to the matter in dispute, the claim
10 shall be denied.

11 Sec. 7. NEW SECTION. 537C.7 Applicability.

12 1. Without prejudice to any legal right, this chapter shall
13 not apply to a corporation, partnership, limited liability
14 corporation, business association, or other legal entity that
15 contracts to subject itself to foreign law in a jurisdiction
16 other than this state or the United States.

17 2. This chapter shall not apply to a church or to a
18 religious corporation, association, or society, with respect
19 to individuals of a particular religion regarding matters
20 that are purely ecclesiastical, including but not limited to
21 calling a pastor, excluding members from a church, electing
22 church officers, matters concerning church bylaws, constitution
23 and doctrinal regulations, and the conduct of other routine
24 church business where the jurisdiction of the church would be
25 final, and the jurisdiction of the courts of this state would
26 be contrary to the First Amendment to the Constitution of the
27 United States and to Article I of the Constitution of the State
28 of Iowa. This exemption in no way grants permission for any
29 otherwise unlawful act under the guise of the protection of the
30 First Amendment to the Constitution of the United States.

31 Sec. 8. NEW SECTION. 537C.8 Conflict.

32 This chapter shall not be interpreted by any court to
33 conflict with any federal treaty or other international
34 agreement to which the United States is a party to the extent
35 that such treaty or international agreement preempts or is

1 superior to state law on the matter at issue.

2 Sec. 9. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
3 immediate importance, takes effect upon enactment.

4 EXPLANATION

5 The inclusion of this explanation does not constitute agreement with
6 the explanation's substance by the members of the general assembly.

7 This bill relates to the application of foreign laws.

8 The bill specifies that it shall be the public policy of
9 this state to protect its citizens from the application of
10 foreign laws when the application of foreign law will result
11 in the violation of a right guaranteed by the Constitution of
12 the United States or the Constitution of the State of Iowa,
13 including but not limited to due process; freedom of religion,
14 speech, or press; and any right of privacy or marriage embodied
15 in the Constitution of the State of Iowa.

16 The bill further specifies that it is the public policy of
17 this state to fully recognize the right to contract freely
18 under the laws of this state, and also to recognize that this
19 right may be reasonably and rationally circumscribed pursuant
20 to the state's interest to protect and promote rights and
21 privileges granted under the Constitution of the United States
22 and the Constitution of the State of Iowa.

23 As used in the bill, "foreign law" means any law, legal
24 code, or system of a jurisdiction outside of any state or
25 territory of the United States, including but not limited to
26 international organizations and tribunals, and applied by that
27 jurisdiction's courts, administrative bodies, or other formal
28 or informal tribunals. "Foreign law" as defined would not
29 include the laws of the Native American tribes of this state as
30 that jurisdiction is within this state.

31 The bill establishes that it is a violation of the public
32 policy of this state if any court, arbitration, tribunal,
33 or administrative agency ruling or decision bases a ruling
34 or decision in the matter at issue in whole or in part
35 on any law, legal code, or system, that would not grant

1 the parties affected by the ruling or decision the same
2 fundamental liberties, rights, and privileges granted under the
3 Constitution of the United States and the Constitution of the
4 State of Iowa. The bill specifies such a ruling is void and
5 unenforceable.

6 Under the bill, a contract or contractual provision, if
7 capable of segregation, which provides for the choice of a law,
8 legal code, or system, to govern some or all of the disputes
9 between the parties arising from a contract mutually agreed
10 upon violates the public policy of this state and shall be void
11 and unenforceable if the law, legal code, or system chosen
12 includes or incorporates any substantive or procedural law,
13 as applied to the dispute at issue, that would not grant the
14 parties the same fundamental liberties, rights, and privileges
15 granted under the Constitution of the United States and the
16 Constitution of the State of Iowa.

17 A contract or contractual provision under the bill, if
18 capable of segregation, which specifies jurisdiction for
19 the purpose of granting the courts or arbitration panels in
20 personam jurisdiction over the parties to adjudicate any
21 disputes between the parties arising from a contract mutually
22 agreed upon, shall be void and unenforceable if the law, legal
23 code, or system chosen includes or incorporates any substantive
24 or procedural law, as applied to the dispute at issue, that
25 would not grant the parties the same fundamental liberties,
26 rights, and privileges granted under the Constitution of the
27 United States and the Constitution of the State of Iowa.

28 If a person of this state, subject to personal jurisdiction
29 in this state, seeks to maintain litigation, arbitration,
30 agency, or similarly binding proceedings in this state and if
31 the courts of this state find that granting a claim of forum
32 non conveniens or a related claim violates the constitutional
33 rights of the nonclaimant in the foreign forum with respect
34 to the matter in dispute, the bill requires that the claim be
35 denied.

1 The bill does not apply to a corporation, partnership,
2 limited liability corporation, business association, or other
3 legal entity that contracts to subject itself to foreign law in
4 a jurisdiction other than this state or the United States. The
5 bill also does not apply to many activities involving a church
6 or religious organization.

7 Additionally, the provisions of the bill shall not be
8 interpreted by any court to conflict with any federal treaty or
9 other international agreement to which the United States is a
10 party to the extent that such treaty or international agreement
11 preempts or is superior to state law on the matter at issue.

12 The bill takes effect upon enactment.